

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT DANVILLE, VA

FILED
for Roanoke
JUL - 1 2008
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JONATHAN RANDALL
FRIZZELLE,
Plaintiff,

v.

U.S. MARSHALS, et al.,
Defendants.

Civil Action No. 7:08cv00385

MEMORANDUM OPINION

By: Hon. Jackson L. Kiser
Senior United States District Judge

The plaintiff, Jonathan Randall Frizzelle, has filed a pro se civil rights action under 42 U.S.C. § 1983. Plaintiff is a federal detainee; having pleaded guilty in Criminal Case 4:07-cr-00021 (W.D. Va., Danville Div.), plaintiff is scheduled for sentencing on August 12, 2008, and is currently in custody at the Roanoke City Jail in Roanoke, Virginia. The court will deny plaintiff's request to proceed in forma pauperis, and will dismiss the complaint.

According to court records, plaintiff has had well over three previous civil rights complaints dismissed on the grounds that they were frivolous, malicious, or failed to state a claim.¹ Therefore, plaintiff may not proceed with this action unless he either pays the \$350.00 filing fee in full or shows that he is "under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

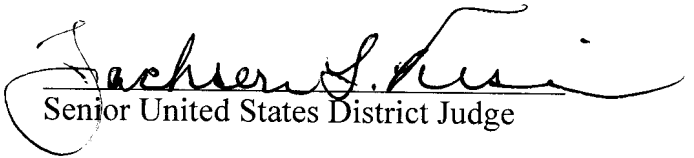
As plaintiff has neither prepaid the filing fee nor demonstrated that he is "under imminent danger of serious physical injury,"² the court will dismiss the complaint.

¹ On January 24, 1996, two actions brought by the plaintiff, styled Frizzelle v. Greenbacker, Civil Action Number 7:96cv00074, and Frizzelle v. King, Civil Action Number 7:96cv00084, were dismissed pursuant to §1915(d) for failure to state a claim. On November 13, 1996, Civil Action Number 7:96cv00940, filed by the plaintiff, also styled Frizzelle v. King, was dismissed pursuant to 1915(e), as frivolous, giving the plaintiff a third strike. Plaintiff has been advised on numerous occasions of his inability to proceed without full pre-payment of the filing fee due to his "three strike" status. See, e.g., Frizzelle v. U.S.A., 7:00-cv-00473 (July 17, 2000).

² Plaintiff states that, before he was taken into federal custody on September 12, 2007, he had an appointment to have magnetic resonance imaging performed in North Carolina in November 2007. He alleges that
(continued...)

The Clerk is directed to send a certified copy of this memorandum opinion and the accompanying order to plaintiff.

ENTER: This 1st day of ^{July}~~June~~, 2008.


Senior United States District Judge

²(...continued)

the U.S. Marshals Office prevented him from keeping the appointment. Plaintiff's allegations fail to suggest that he faces "imminent" danger of "serious" physical harm.